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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,232	02/09/2005	Frank Fassbender	54187/DBP/M521	1556
23363 7590 07/26/2007 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			EXAMINER STRIMBU, GREGORY J	
			ART UNIT 3634	PAPER NUMBER
			MAIL DATE 07/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/524,232	FASSBENDER, FRANK	
	Examiner	Art Unit	
	Gregory J. Strimbu	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 16, 17, 20-25, 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 18, 19, 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/9/05</u> | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election of Group I in the reply filed on May 9, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 16, 17, 20-25, 29 and 30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 9, 2007.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rupturable region (claim 4); slide members (claim 10); a lifting rail (claim 10); positioning detent elements (claim 11); a pin having a rupturable region (claim 12); slide members (claim 26); first, second and third guide ways (claim 26); first and second guide directions (claim 26); the opening of the first guide way is wider than that of the second and third guide ways (claim 26); and the follower is guided in the second guide direction only through the second guide way and the third guide way (claim 26) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because the invention is not shown with the proper cross sectional shading in figures 3a, 3b, 5, and 7. Additionally, the section line "A-A" in figure 1c should be labeled as --3A-3A-- or --IIIA- IIIA-- so as to indicate which figure shows the view taken along the section line. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures

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must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because "is provided" on one line 2 can be easily implied and therefore should be deleted. On line 4, "a window guide rail" is confusing since it is unclear how the window guide rail differs from the guide plate. Note that the specification shows the guide plate 1 as a guide rail. On lines 6-7, "on the

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front and rear . . . of the guide plate" is confusing since it is unclear if the guiding elements or the guide rail is on the front and rear edges of the guide plate. On line 13, "guide rail of the guide plate" is confusing since it is unclear how the guide rail differs from the guide rail. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because it is unclear what structure described in the specification comprises the positioning detent elements of the lifting rail, the several slide members, the first, second and third guide ways. Additionally, it is unclear what structure enables the follower to move in a first guide direction substantially orthogonal to the surface of the guide plate and through restrictions of the opening of the guide way in a second guide direction.

On line 18 of page 10, it is suggested the applicant change "AA" to --3A-3A-- to agree with the drawing changes.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10-12, 26 and 28 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a single follower guided in a guide plate, does not reasonably provide enablement for several slide members mounted movable to a lifting rail (claim 10), several slide members mounted to a slide on at least

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a first, a second and a third guide way (claim 26), the follower is guided in a first guide direction substantially orthogonal to the surface of the guide plate and through restrictions of the opening of the guide way in a second guide direction (claim 26). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

Claims 1-13, 15, 18, 19, 26-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "which is mounted on a guide plate" on line 2 of claim 1 render the claims indefinite because it is unclear if the follower or the window lifter is mounted on a guide plate. Recitations such as "a guide way" on line 4 of claim 1 render the claims indefinite because it is unclear what element of the invention includes the guide way to which the applicant is referring. On line 14 of claim 1 it is suggested the applicant insert a comma following "assembly" to avoid confusion. Recitations such as "designed as" on line 3 of claim 2 render the claims indefinite because it is unclear if the engagement regions actually have releasable positive locking connections or are merely designed to have releasable positive locking connections. Recitation such as "the engagement regions are designed as a releasable positive locking connection" on lines 2-3 of claim 2 render the claims indefinite because it is unclear how all of the engagement regions can be designed as one locking connection. Recitations such as

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"for secure hold" on lines 3-4 of claim 2 render the claims indefinite because it is unclear what element(s) of the invention are being held. Recitations such as "for movable bearing" on line 2 of claim 5 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Recitations such as "a further positive locking" on lines 4-5 of claim 7 render the claims indefinite because it is unclear what element(s) of the invention are being locked. Recitations such as "for locking . . . functioning position" on line 3 of claim 8 render the claims indefinite because they are grammatically awkward and confusing. Recitations such as "engagement region" on line 3 of claim 9 render the claims indefinite because it is unclear if the applicant is referring to the engagement region set forth above or is attempting to set forth another engagement region in addition to the one set forth above. Recitations such as "more particularly a detent nose or a detent groove" on lines 3-4 of claim 9 render the claims indefinite because it appears that the applicant has attempted to set forth a broad range followed by a narrow range. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a

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required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 9 recites the broad recitation a detent element, and the claim also recites a detent nose or detent groove which is the narrower statement of the range/limitation. Recitations such as "several slide members" on lines 2-3 of claim 10 render the claims indefinite because it is unclear if the slide members are part of the follower set forth above or comprise the same elements as the follower set forth above, or are in additional elements in addition to the follower set forth above. Recitations such as "a first guide element" on line 3 of claim 10 render the claims indefinite because it is unclear if the applicant is referring to the first guide element set forth above or is attempting to set forth another first guide element in addition to the one set forth above. Recitations such as "the assembly position" on line 8 of claim 10 render the claims indefinite because it is unclear if the applicant is referring to the assembly position of the follower set forth above or is attempting to set forth another assembly position in addition to the one set forth above. Recitations such as "the engagement regions . . . elements" on lines 4-5 of claim 11 render the claims indefinite because they lack antecedent basis. Recitations such as "secure" on line 6 of claim 11 render the claims indefinite because they are relative terms whose meaning cannot be readily ascertained by one with ordinary skill in the art and are not defined by the specification. Recitations such as "the positioning detent element" on line 2 of claim 12 render the claims indefinite because it is unclear to which one of the plurality of detent elements set forth above the applicant is referring.

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Recitations such a "or" on line 4 of claim 13 render the claims indefinite because it is unclear which one of the non-equivalent alternatives the applicant is attempting to set forth. Recitations such as "the guide way has . . . on the guide web" on lines 2-4 of claim 15 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Recitations such as "the region of the assembly" on line 8 of claim 15 render the claims indefinite because they are grammatically awkward and confusing. Recitations such as "a continuously controlled window lifter" on line 3 of claim 18 render the claims indefinite because it is unclear if the applicant is referring to the window lifter set forth above or is attempting to set forth another window lifter in addition to the one set forth above. Recitations such as "which is" on line 7 of claim 18 render the claims indefinite because they are grammatically awkward and confusing. Recitations such as "adjusting path" on line 24 of claim 18 render the claims indefinite because it is unclear if the applicant is referring to the adjusting path set forth above or is attempting to set forth another adjusting path in addition to the one set forth above. Recitations such as "means" on line 32 of claim 18 render the claims indefinite because the applicant has attempting to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Recitations such as "at least a first, a second and a third guide way" on lines 31-32 of claim 26 render the claims indefinite because it is unclear if the three guide ways set forth on lines 31-32 include the guide way set forth

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on line 5 of claim 26 for a total of three guide ways or if the three guide ways set forth on lines 31-32 are in addition to the guide way set forth above for a total of four guide ways. Recitations such as "engage" on line 33 of claim 26 render the claims indefinite because it is unclear to what elements of the invention actually engage one another. Recitations such as "the guide way" on line 33 of claim 26 render the claims indefinite because it is unclear to which one of the plurality of guide ways set forth above the applicant is referring. Recitations such as "displaceable in translation" on lines 2-3 of claim 27 render the claims indefinite because it is unclear what the applicant is attempting to set forth.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 and 27, as best understood by the examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Sambor (US 5058322). Sambor discloses a follower 14 for a continuously controlled window lifter 10 which is mounted on a guide plate 18 fixed in a motor vehicle and is displaceable along an adjusting path formed by a guide comprising at least a first guide element 26 which is mounted displaceable on a first side of the guide plate, and at least a second guide element 42 which is mounted displaceable on second side of the guide plate, wherein the second guide element is

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held in an assembly position relative to at least one of the first guide element and/or another element of the follower through associated engagement regions 36, 46, and wherein at least for assembly the first guide element and the second guide element are movably mounted relative to each other so that at least the second guide element can be brought from the assembly position into a functioning position on the guide way of the guide plate, the engagement regions 36, 46 are designed as positive locking connections, releasable force locking connections, and as rupturable regions, the first and second guide elements are rotatably mounted relative to each other, the first and second guide elements are mounted displaceable relative to each other, a locking element 48 provides further positive locking, the second guide element 26 has as a positive locking engagement region a detent groove 32.

Claims 14 and 15, as best understood by the examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Gudmundsen (US 2017244). Gudmundsen discloses a guide plate 32 for a continuously controlled window lifter in a motor vehicle, comprising: a guide way 33 for guiding a follower 35 of the window lifter and for adjusting the follower along an adjusting path which is formed by the guide way, and a guide web 36 of the guide way for guiding the follower in the plane of the guide way along the adjusting path, wherein the height of the guide web of the guide way is reduced in a region for assembling the follower 34 as shown in figure 7, the guide way has track faces (not numbered, but shown as the left and right hand faces of the guide

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plate 32 in figure 5) each associated with at least one guide element 37, 44 of the follower.

Claim Rejections - 35 USC § 103

Claims 10-12 and 28, as best understood by the examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sambor as applied to claims 1-9 and 27 above, and further in view of Kobayashi et al. (US 4633613) Kobayashi et al. discloses a window lift mechanism comprising a plurality of followers 22 each sliding in a respective guide rail 30, 32, 34.

It would have been obvious to one of ordinary skill in the art to provide Sambor with a plurality of followers and guide rails, as taught by Kobayashi et al., to more accurately control the movement of the window pane.

Claims 18 and 19, as best understood by the examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sambor '322 in view of Gudmundsen '244. Sambor discloses a continuously controlled window lifter 10 comprising a follower 14 for a continuously controlled window lifter which is mounted on a guide plate 18 fixed in a motor vehicle and is displaceable along an adjusting path formed by a guide way 64, wherein at least a first guide element 26 which is mounted displaceable on the a first side of the guide plate, and at least a second guide element 42 which is mounted displaceable on a second side of the guide plate, wherein the second guide element is held in an assembly position relative to at least one of the first guide element and

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another element of the follower through associated engagement regions 36, 46, wherein at least for assembly, the first guide element and the second guide element are movably mounted relative to each other so that at least the second guide element can be brought from the assembly position into a functioning position on the guide way of the guide plate, wherein the guide way guides the follower of the window lifter and adjusts the follower along an adjusting path which is formed by the guide way, wherein a guide web (not numbered, but shown in figure 1) of the guide way guides the follower in the plane of the guide way along the adjusting path, and wherein the follower can be driven along the guide way by means of a cable or a Bowden cable. Sambor is silent concerning a reduced height section of the guide web.

However, Gudmundsen discloses a window lifter comprising a guide plate 32 having a guide web 36, wherein the height of the guide web 36 of the guide way 33 is reduced in a region for assembling the follower 34.

It would have been obvious to one of ordinary skill in the art to provide Sambor with an assembly region, as taught by Gudmundsen, to increase the ease with which the window lifter can be assembled.

Allowable Subject Matter

Claim 26, as best understood by the examiner, would be allowable if rewritten or amended to overcome the rejections set forth in this Office action.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weber et al., Gudmundsen '244, Nicholson, Devereaux, and Hamman are cited for disclosing a follower and guide way combination.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
July 20, 2007